

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 RAMON MURIC-DORADO,
5 Plaintiff,

Case No. 2:18-cv-1184-JCM-EJY

6 v.

ORDER

7 LAS VEGAS METROPOLITAN POLICE
8 DEPARTMENT, et al,
9 Defendants.

10 Before the Court is Plaintiff's Second Motion to Substitute True Names for Doe Defendants
11 in Accordance with Courts [sic] Order ECF No. 126 (ECF No. 131). The Court has considered
12 Plaintiff's Motion, Defendants' Opposition (ECF No. 142), and Plaintiff's Reply (ECF No. 147).
13 Plaintiff's Motion complies with Court's Order, but also seeks to add new defendants to various
14 causes of action. ECF No. 131. Plaintiff also asks the Court to clarify its Order regarding Count 12.

15 **I. Discussion**

16 A. Clarification of the Court's Order Regarding Count 12.

17 Plaintiff states he is unclear whether the Court is aware that numerous additionally named
18 individuals were allegedly assigned to the Classification Committee and were not previously
19 identified. These individuals include David Gonzalez, Sergeant Steven Albright, Sergeant Epeneter,
20 Sergeant Seciliano, Sergeant Ronald Rodriguez, Sergeant Oscar Martinez, and Jonathan Clark.¹

21 However, other than stating these individuals were members of the Classification
22 Committee, apparently at some point in time, Plaintiff does not allege they were members when
23 events about which he complains occurred or whether they were involved in any decisions pertaining
24 to Plaintiff. Plaintiff also does not otherwise allege facts that sufficiently state a Fourteenth
25 Amendment due process disciplinary segregation claim against these proposed defendants. For this
26

27
28 ¹ The Court previously granted Plaintiff's Motion to Substitute Classification Sergeant Tanya Vai and
Classification Sergeant Darin Hardin on January 20, 2021. ECF No. 126 at 3.

1 reason, the Court denies the substitutions requested without prejudice. Plaintiff may, upon
2 appointment of pro bono counsel, renew these substitution requests if counsel deems it appropriate.

3 B. Count 13 Proposed Substitutions.

4 Plaintiff seeks to substitute Dustin Kim, P. #5908, for Defendant Kim, Doe 19, in his First
5 Amendment retaliation, Fourteenth Amendment excessive force, and state law assault and battery
6 claims. ECF No. 131 at 4. The Court previously found Plaintiff describes Defendant Kim's
7 participation in the constitutional violations with sufficient detail to permit this substitution to
8 proceed. ECF No. 22 at 11. For this reason, Plaintiff's substitution of Dustin Kim, P. #5908, for
9 Defendant Kim in his surviving Count 13 claims is granted.

10 With respect to Plaintiff's desire to substitute six named defendants for Doe Defendants in
11 Count 13, Plaintiff alleges that for a period of approximately four months officers denied Plaintiff's
12 request for properly sized footwear, that he had to wear two right-footed shoes, and that this resulted
13 in creating a dangerous condition of confinement. Defendants argue that Plaintiff's Motion is
14 deficient as it relates to those who denied Plaintiff footwear because Plaintiff fails to provide enough
15 factual detail to satisfy Fed. R. Civ. P. 8(a)'s pleading requirements. ECF No. 142 at 4. Plaintiff
16 responds that Defendants' denial of his requests resulted in "unreasonable dangerous condition[s] of
17 confinement" to Plaintiff, including "taking a shower on a wet floor, and/or walking up and down
18 the staircase." ECF No. 147 at 3.

19 The Court's Screening Order establishes Plaintiff is allowed to proceed against Doe
20 Defendants who denied Plaintiff proper footwear when he learns their identities. ECF No. 22 at 13.
21 Therefore, with respect to the six defendants who Plaintiff properly identified as being substituted
22 for currently named Doe Defendants in his footwear denial claim, Plaintiff's Motion is granted.²

23 Plaintiff also seeks to add numerous defendants to his conditions of confinement claim who
24 were "somehow informed via 'kite' or 'grievance' or 'word by mouth' about the failure and refusal
25 to acquire proper footwear for Plaintiff." ECF No. 131 at 7. This request goes beyond what the
26

27 ² To the best of the Court's ability to decipher Plaintiff's Motion and reasonably identify individuals Plaintiff
28 claims denied him proper footwear, the properly substituted defendants in Count 13 include Michael Chambers;
Raymond Bunch; Steven White; Corrections Officer Tate (P# 15638); Corrections Officer Taylor (P# 5928); and
Corrections Officer T. Glover.

1 Court's Order permitted Plaintiff to do. ECF Nos. 22 and 126. Thus, to the extent that Plaintiff
2 seeks to add or substitute in defendants who were "informed" of the denials of footwear, Plaintiff's
3 Motion is denied.

4 C. Count 18 Proposed Substitutions.

5 In Count 18, the Court allowed Plaintiff's First Amendment Retaliation claim to proceed
6 against defendants Reynald, Newman, Patton, Green, and Doe officers; Plaintiff's Fourteenth
7 Amendment strip search claim to proceed against Doe officers; and Fourteenth Amendment due
8 process-property claim to proceed against Reynald, Newman, Patton, Green, and Doe officers. ECF
9 No. 22 at 16-17. Plaintiff now seeks to substitute Jesse Reynolds for defendant Reynald, Richard
10 Newman for defendant Newman, Angela Patton for defendant Patton, and Mitchell Green for
11 defendant Green. These name substitutions will be allowed.

12 Plaintiff also alleges that defendants Corrections Officer Hunter and John Doe # 6 subjected
13 him to an illegal strip search after which, while Plaintiff was allegedly placed in a visiting care booth,
14 his legal books were supposedly confiscated. Plaintiff's substitution of Corrections Officer Hunter
15 for John Doe 5 will be allowed to proceed. With respect to Plaintiff's allegations regarding John
16 Doe # 6, the Court finds there is no substitution to make.

17 Plaintiff also identifies a conversation with Sergeant Berndt regarding the due process-
18 property claim; however, Plaintiff does not explain Berndt's involvement in any of his Count 18
19 claims other than an alleged potential threat to Plaintiff's reading glasses, which Berndt returned to
20 Plaintiff. ECF No. 131 at 9. The allegations against Berndt are insufficient to state violations of the
21 constitutional rights identified in Count 18. Accordingly, this substitution will not be allowed at this
22 time.

23 In addition to the above, Plaintiff seeks to add seven defendants to Count 18 as supervisors
24 because they were allegedly deliberately indifferent to retaliatory and harassing misconduct. ECF
25 No. 131 at 10. Specifically, Plaintiff contends that "[p]roduction of video surveillance of particular
26 events can adequately conclude at what degree John Doe 2 – Walter Hampton, Mitchell Green, Lt.
27 Lusch, Sergeant Batu, Sergeant Lebaron, Sergeant Hightower, and Sergeant Wallace acted or
28 participated relative to Count 18." *Id.* At the pleading stage of proceedings Plaintiff must allege

1 sufficient facts to take a claim from conceivable to plausible. *Bell Atlantic Corp. v. Twombly*, 550
2 U.S. 544, 570 (2007). Plaintiff's allegations assert conceivable, not plausible claims and therefore
3 are insufficient to state a claim against these seven proposed defendants. Plaintiff's Motion seeking
4 to add John Doe 2 – Walter Hampton, Mitchell Green, Lt. Lusch, Sergeant Batu, Sergeant Lebaron,
5 Sergeant Hightower, and Sergeant Wallace to Count 18 is denied.

6 D. Count 19 Proposed Substitutions.

7 Plaintiff seeks to substitute and/or add new defendants to Count 19's First Amendment
8 retaliation and Fourteenth Amendment due process-property deprivation claims. Plaintiff also seeks
9 to add allegations to this claim through motion practice. ECF No. 131 at 10-12.

10 The Court's Screening Order allowed Plaintiff to proceed with retaliation claims against
11 Defendants Shrewberry, Razzo, Whexl and Doe cell search officers, as well as due process-property
12 deprivation claims against Defendants Shrewberry, Razzo, Whexl, and Doe cell search and property
13 officers (ECF No. 22 at 18).

14 A review of Plaintiff's allegations regarding the various individuals identified in this portion
15 of Plaintiff's Motion fails to identify how any of the individuals were involved in conduct that
16 violated Plaintiff's constitutional rights. Knowledge of Plaintiff's missing legal books, managing
17 the property room and/or signing the property transaction receipt, all of which Plaintiff alleges, is
18 insufficient to state a property deprivation-due process claim. *Taylor v. List*, 880 F.2d 1040, 1045
19 (9th Cir. 1989) (liability under Section 1983 arises only upon a showing of personal participation by
20 the defendant). Therefore, Plaintiff's Motion to substitute and/or add defendants to Count 19 is
21 denied.

22 E. Unidentified Defendant Substitutions.

23 Plaintiff seeks to add new names to various claims in his Second Amended Complaint.
24 Plaintiff also identifies numerous potential defendants by P number only. The Court exercises its
25 inherent power to control its docket for itself, counsel, the parties and limit the continued effort to
26 expand this suit. *Landis v. N. American Co.*, 299 U.S. 248, 254 (1936); *Bernhardt v. Los Angeles*
27 *Cty.*, 339 F.3d 920, 925 (9th Cir. 2003); *Tingley v. Nevada Dep't of Pub. Safety*, No. 3:14-cv-00406-
28 MMD-VP, 2015 WL 2448818, at *3 (D. Nev. May 21, 2015). There must be an end to amendments

1 in this case. The Court has been lenient with Plaintiff and provided substantial opportunity to amend
2 his Complaint. *See* Fed. R. Civ. P. 1. Thus, Plaintiff's Motion to add these newly identified potential
3 defendants is denied.

4 **II. Order**

5 IT IS HEREBY ORDERED that Plaintiff's Motion to Substitute True Names for Doe
6 Defendants in Accordance with Courts [sic] Order ECF No. 126 (ECF No. 131) is GRANTED in
7 part and DENIED in part.

8 IT IS FURTHER ORDERED that Defendant Dustin Kim, P.# 5908, shall be substituted in
9 for Defendant Kim, Doe 19, in all Counts in which he is named in Plaintiff's Second Amended
10 Complaint.

11 IT IS FURTHER ORDERED that the following additional defendants shall be substituted
12 for Doe Defendants in Count 13 of Plaintiff's Second Amended Complaint (ECF No. 15): Michael
13 Chambers; Raymond Bunch; Steven White; Corrections Officer Tate (P# 15638); Corrections
14 Officer Taylor (P# 5928); and Corrections Officer T. Glover.

15 IT IS FURTHER ORDERED that Defendant Reynald's name shall be corrected to Jesse
16 Reynolds, Defendant Newman's name shall be corrected to Richard Newman, Defendant Patton's
17 name shall be corrected to Angela Patton, and Defendant Green's name shall be corrected to Mitchell
18 Green.

19 IT IS FURTHER ORDERED that Corrections Officer Hunter shall be substituted for Doe 5
20 in Count 18 of Plaintiff's Second Amended Complaint.

21 IT IS FURTHER ORDERED that except as stated above, Plaintiff's Motion to Substitute
22 True Names for Doe Defendants (ECF No. 131) is DENIED.

23 IT IS FURTHER ORDERED that, **no later than 10 Court days after the date of this**
24 **Order**, the Office of the Attorney General shall file a notice advising the Court, copying Plaintiff,
25 of: (a) the names of the newly identified defendants including Michael Chambers, Raymond Bunch,
26 Steven White, Corrections Officer Tate (P# 15638), Corrections Officer Taylor (P# 5928),
27 Corrections Officer T. Glover, and Corrections Officer Hunter for whom it accepts service; (b) the
28 names of the newly identified defendants for whom it does not accept service, and (c) the names of

1 the defendants for whom it is filing the last-known-address information under seal. As to any of the
2 named defendants for whom the Attorney General's Office cannot accept service, the Attorney
3 General's Office shall file, under seal, but shall not serve the inmate Plaintiff, the last known
4 address(es) of those defendant(s) for whom it has such information. If the last known address of the
5 defendant(s) is a post office box, the Attorney General's Office shall attempt to obtain and provide
6 the last known physical address(es).

7 IT IS FURTHER ORDERED that Plaintiff shall not be entitled to file any additional motions
8 for the purpose of substituting named defendants for Doe defendants prior to appointment of pro
9 bono counsel. If counsel is appointed and finds additional meritorious claims or defendants should
10 be amended, Plaintiff's counsel may move the Court to amend at that time.

11 DATED THIS 3rd day of May, 2021.

12
13 
14 ELAYNA J. YOUCHAH
UNITED STATES MAGISTRATE JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28